

Remarks/Arguments:

Claims 1-34 remain for consideration in this application with claims 1 and 19 being in independent format. In view of the claims as they now stand, together with the remarks hereunder, the rejections of the April 20, 2005 office action must respectfully be traversed.

In the office action, the drawings were objected to because it appeared that portions of the y-axis on both Figs. 1 and 2 were cut off. Replacement drawings for Figs 1 and 2 have been provided. However, Applicants assert that the originally filed drawings were complete, and the Examiner is invited to clarify the objection if the data on the currently presented drawings remains unclear.

Claims 9 and 26 were rejected under 35 U.S.C. 112 for being indefinite or unclear. Applicants failed to find the alleged “EC” temperature units in claims 9 and 26. However, Applicants believe that the originally recited “°C” (degrees Celsius) temperature units in claims 9 and 26 were converted during the electronic filing process to the “EC” temperature units read by the Examiner. To avoid further confusion, applicants have amended claims 9 and 26 to specify that the temperature units are “degrees Celsius.” As claims 9 and 26 are no longer indefinite, the Examiner’s rejections must be respectfully withdrawn.

Claims 1-3, 14-15, and 18-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Jensen et al. (US 3,265,629). Jensen teaches a method of coating an active core using phase separation. The method taught by Jensen discloses the presence of an inner lipid layer surrounding an active core, which can be a fertilizer product, and an outer layer surrounding the inner layer and

core. In contrast, independent claims 1 and 19 recite a single polymeric layer which, as amended, is in intimate contact with the fertilizer product. Support for this amendment can be found in the Specification at page 7, line 21. Because it is the outer layer in Jensen that could be a polymer and because this polymeric layer is separated from the fertilizer by the inner lipid layer, it cannot be said that Jensen teaches or even suggests having the fertilizer product be in intimate contact with the outer polymeric layer. In fact, the exact opposite teaching is given in Jensen because precoating the active core with the inner lipid layer is essential for successfully encapsulating the core using the method taught by Jensen. (See column 1, lines 23-46). Accordingly, there is also no motivation to modify the teachings of Jensen to arrive at a single polymeric layer in intimate contact with the fertilizer product, as recited in the present invention.

Further, Applicants assert that the coatings disclosed by Jensen are not substantially water-soluble like those of the present invention, because Jensen specifically recites that the disclosed coatings have the “unique characteristics” of being hydrophilic in nature, while at the same time not being dissolved by water (See column 2, lines 13-19). Therefore, not only does Jensen not disclose a method of using a single polymeric layer in intimate contact with the fertilizer product, it also specifically teaches away from using substantially water-soluble materials for the fertilizer coating. The polymers of the present invention are therefore, not taught or suggested by Jensen, and accordingly it cannot be said that the method of the present invention is obviated by Jensen.

Claims 1-34 were rejected as being obvious over Sanders et al. (US 6,515,092). Attached hereto are Declarations from the Vice-President of Specialty Fertilizer Products, LLC and John L. Sanders, co-owners of both Sanders patents and also of the instant application. These Declarations

establish that the subject matter of the '092 patent and the presently claimed invention were, at the time the invention was made, owned by the same entities or subject to an obligation of assignment to the same entities, and that the inventor of the current invention is a prior inventor under 35 U.S.C. 104. A Terminal Disclaimer is also attached as required by 37 C.F.R. 1.130(a) and 1.321(c). Therefore, this rejection has been overcome.


Sanders et al. (US 6,518,382) was also used as a basis for a double-patenting rejection. The '382 patent is commonly owned with the present application, and Applicants have attached a Terminal Disclaimer executed by the owners which overcomes this rejection. Accordingly, the Sanders references are not a bar to the patentability of the present invention.

Claims 1-2, 14, 18-19 and 31-32 were provisionally rejected under obviousness-type double-patenting as being unpatentable over copending Application No. 10/846,076. Because this is a provisional rejection, Applicants will respond should the application mature into a patent and become the basis for an actual rejection on the same ground. In that case, Applicants will take appropriate action and file a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(c).

Any additional fee which is due in connection with this amendment should be applied against our Deposit Account No. 19-0522.

In view of the foregoing, a Notice of Allowance appears to be in order and such is courteously solicited.

Respectfully submitted,

By 
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